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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/075,019

02/12/2002

Steven Dietz

1867-00203

7488

23505

7590

03/21/2006

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EXAMINER

HA, NGUYEN T

ART UNIT

PAPER NUMBER

2831

DATE MAILED: 03/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

HA

Office Action Summary

Application No.

10/075,019

Applicant(s)

DIETZ ET AL.

Examiner

Nguyen T. Ha

Art Unit

2831

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-69 is/are pending in the application.
- 4a) Of the above claim(s) 1-39 and 53-69 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 40-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 0502.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of claims 40-52 in the reply filed on 1/6/2006 is acknowledged.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 40-52 are rejected under 35 U.S.C. 102(e) as being anticipated by Bell et al. (US 6,297,293).

Regarding claim 40, Bell et al. disclose a method for preparing a mesoporous polymer, comprising the steps of:

- providing a solution containing one or more polymerizable organic compounds (column 17, lines 2-5 and column 6, lines 11-27) whose polymerization rate depends on pH; it is inherent that the polymerizable organic compound and a surfactant as taught by Bell having the pH level.

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- controlling the average polymer particle size primarily by controlling the pH (column 17, lines 23-25); and
- manipulating the pore size in the polymer primarily by adjusting the solvent concentration (column 18, lines 9-10).

Regarding claim 41, Bell et al. further including the step of drying the porous polymer to produce a dried porous polymer (column 17, lines 16-18).

Regarding claim 42, a method for preparing a mesoporous carbon, comprising the steps of:

- providing a solution containing one or more polymerizable organic compounds (column 17, lines 27-30 and column 6, lines 11-27) whose polymerization rate depends on pH; it is inherent that the polymerizable organic compound and a surfactant as taught by Bell having the pH level.
- controlling the average polymer particle size primarily by controlling the pH (column 17, lines 23-25);
- manipulating the pore size in the polymer by adjusting the solvent concentration (column 18, lines 9-10); and
- pyrolyzing the porous polymer to form a porous carbon (column 18, lines 3-4).

Regarding claim 43, Bell et al. further including the step of activating the porous carbon so as to increase its capacitance when used with an electrolytic (column 18, lines 9-10).

Regarding claim 44, Bell et al. further including the step of activating the porous carbon, wherein the activation is carried out at between 500 °C and 1200 °C (column 18, lines 11-13).

Regarding claim 45, Bell et al. further including the step of controlling the composition of the solution so as to produce a mesoporous carbon having a pore size between 2 and 50 nm (column 18, lines 14-17, which is within the claimed range).

Regarding claim 46, Bell et al. further including the step of controlling the composition of the solution so as to produce a mesoporous carbon having a pore size between 10 and 28 nm (column 18, lines 14-17, which is within the claimed range).

Regarding claim 47, Bell et al. disclose a capacitor comprising at least two electrodes, at least one of the electrodes comprising a mesoporous carbon material produced and an electrolytic in contact with at least one of the electrodes (column 4, lines 37-42).

Regarding claim 48, Bell et al. disclose the electrolyte is a non-aqueous electrolyte (column 2, lines 41-42).

Regarding claim 49, Bell et al. disclose the electrolyte is an aqueous electrolyte (column 2, lines 41-42).

Regarding claim 50, Bell et al. disclose the carbon material is monolithic (column 6, lines 31-32).

Regarding claim 51, Bell et al. disclose the mesoporous carbon having at least one dimension greater than 2mm, a surface area between 200 and 2000 m²/g, a density greater than 0.5 g/cc, and a pore size greater than 10 nm (table 1).

Regarding claim 52, Bell et al. disclose the mesoporous carbon having a conductivity of at least 10 Scm^{-1} (table 11).

Citation Relevant of Prior Art

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
 - a. Tennison et al. (US 2004/0024074) disclose porous carbons.
 - b. Wei et al. (US 6,696,258) disclose mesoporous materials and methods of making the same.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nguyen T. Ha whose telephone number is 571-272-1974. The examiner can normally be reached on Monday-Friday from 8:30AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on 571-272-2800 ext. 31. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only. .

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Nguyen T. Ha', with a stylized flourish at the end.

Nguyen T. Ha
March 8, 2006